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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Concerning Energy
Efficiency Rolling Portfolios, Policies, Programs,
Evaluation, and Related Issues

Rulemaking 13-11-005
(Filed November 14, 2013)

**NATURAL RESOURCES DEFENSE COUNCIL (NRDC) OPENING
COMMENTS ON THE RULING OF ASSIGNED COMMISSIONER AND
ADMINISTRATIVE LAW JUDGE SEEKING INPUT ON APPROACHES
FOR STATEWIDE AND THIRD-PARTY PROGRAMS**

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Lara Ettenson
Natural Resources Defense Council
111 Sutter St., 21st Floor
San Francisco, CA 94104
(415) 875-6100
lettenson@nrdc.org

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I. Introduction

Pursuant to Rules 1.9 and 1.10 of the California Public Utilities Commission's (Commission or CPUC) Rules of Practice and Procedure, the Natural Resources Defense Council (NRDC) submits the following opening comments on the "Ruling of Assigned Commissioner and Administrative Law Judge Seeking Input on Approaches for Statewide and Third-Party Programs," (Ruling) May 24, 2016. NRDC is a non-profit membership organization with more than 70,000 California members who have an interest in receiving affordable energy services while reducing the environmental impact of California's energy use.

II. General Comments

A. The CPUC should clearly articulate the hypothesis they are testing or the problem they are trying to solve in order to design the most effective solution.

The Commission should clearly articulate the challenge with the current Statewide (SW) or Third-Party (3P) programs and the specific problem statement(s)/hypotheses to ensure that modifications are in direct response to a key issue that needs resolution. The following examples highlight where the Ruling does not clearly identify what specific challenges there are with the current approach, what the problem statements (or hypotheses to test) are, or how the proposals would resolve the observed issues:

1. What is the problem that arises from having different definitions of statewide programs? The Ruling identifies that "...currently there does not appear to be one consistent definition or approach for statewide programs" (p.2) but there is no articulation of what problem the proposal is trying to resolve. If the issue is solely that the current statewide programs have different definitions, a solution for that problem would be different than if, for example, the issue is that *because of the observed inconsistency* there are higher administrative costs or confusion for implementers and customers as shown by evaluations or other data sources.

2. Are the current SW programs hard to access with unnecessarily high costs? The Ruling further notes that the new SW definition is “designed to emphasize the desirability of making programs easy to access and with low transaction costs for customers or market actors that have a statewide reach...” (p.3) This could infer that the current approach is yielding hard-to-access programs at high transactions costs yet there is no discussion to that effect. The Ruling also notes that by moving to a newly defined statewide approach, overhead costs would be reduced by eliminating redundancy. However, there is no description of the current sources of redundant costs thus it is unclear if the proposal would in fact achieve this goal.
3. What problem is the Commission seeking to solve with bidding out to 3Ps? The Ruling notes that 3P programs are essentially prescribed to fill gaps and therefore 3Ps are limited in their ability to propose innovative programs (p.9). Is the problem then that there are not enough opportunities for 3Ps to bid? Is the problem that there are not enough innovative programs? Or is the hypothesis that 3Ps are better able to deliver programs? Addressing each of these questions could require different approaches. Therefore it is critical to first understand what the Commission is aiming to improve.

Furthermore, it is unclear how either proposed option in the Ruling or redefining what qualifies as 3P programs would address any of these questions (if they are in fact what the Commission aims to address). While we support more opportunities for 3Ps to design, implement, and deliver programs, there are other challenges that inhibit innovation for all implementers that the Commission should address (e.g., cost-effectiveness, lack of workpaper/DEER values, time-horizon for program, etc.). It is also unclear how the options or definition would provide more opportunities for third parties than there are today.

NRDC agrees there are likely ways to optimize the current programs and we support testing out various approaches to see which approaches work most effectively, but only after it is clear what the problem or the hypothesis is. Without a clear understanding of the problem statement or whether the problems impact all or some of the current programs and sectors, it is difficult to comment on the current proposals or develop an alternative strategy that would most effectively achieve the objectives sought by the Commission.

It is therefore critical that the Commission first clearly articulate the various issues it aims to resolve (e.g., non-PAs do not have enough opportunities to design and implement their own programs) or the hypothesis it wishes to test (e.g., SW programs that are bid out to a single implementer will operate more smoothly and at lower cost than a coordinated effort across PAs). Stakeholders and the Commission can then develop strategies that are designed specifically to address the issues. In addition, by identifying the problem statement up front, the Commission can better develop meaningful metrics to measure whether the new or modified approach solves the problem better than the status quo.

B. The Commission should leverage the CAEECC process and defer substantial changes to SW and 3P programs until after the Business Plans (BPs) are filed.

While there will conceivably be a few months between the forthcoming guidance decision and the PA business plan filings, we urge the Commission to consider how long it takes to design these new types of plans (and get them internally approved within the PA structure), the desire to ensure sufficient time for stakeholder input through the California Energy Efficiency Coordinating Committee (CAEECC) process, and the potential for extensive modifications to the current draft plans depending on the outcome of the guidance decision.

The CAEECC process was established in part to address these very types of questions and to minimize the need to submit dozens of pages of comments on questions that the CPUC staff then has to make sense of, consolidate, and devise a solution to address potentially conflicting points or proposals. As an alternative to the traditional formal approach to soliciting input, the CAEECC process was intended to hone the various positions in a manner that would informally resolve issues when possible, identify a few key emerging proposals, illustrate the pros and cons of those proposals (as well as who the supporters are), and note key issues that could not be resolved. This consolidated information would be submitted to the Commission for consideration in the decision-making process.

There is still time to leverage this approach prior to the filing of the BPs. NRDC recommends that instead of requiring a wholesale change for either SW or 3P programs in a formal decision, the CPUC should provide guidance through a short ruling for what proposals the PAs should submit as part of their BP filings (see answer to Q1 and Q4 below).

III. NRDC Responses to Questions in the Ruling

Questions related to overall regulatory framework for SW and 3P programs

Q1: Should the Commission give additional guidance beyond the broad outlines in D.15-10-028 for the Rolling Portfolio Cycles and Sector Business Plans to the program administrators in the areas of statewide and third-party programs prior to submission of the Sector Business Plans in late 2016? Or would it be preferable to have the Commission wait to evaluate proposals brought forward in the Business Plans by the program administrators? Explain in detail the rationale for your preferred approach.

Given the tight timeline and fact that the CAEECC process has begun discussing these issues, NRDC suggests the Commission provide a short guidance ruling in July for PAs to

propose approaches to both SW and 3P program improvements in their BP filings. In particular, this ruling should include (a) the key problem(s) – or hypotheses - the Commission hopes the proposals will solve or test, (b) guiding principles/objectives for the proposal (e.g., what does the Commission want the proposals to consider the most? Reduction in costs? Innovation? etc.) and (c) what should be in the proposal (e.g., the proposal itself, how the proposal aims to solve the problem or answer the hypothesis identified, the pros/cons of the approach compared to the status quo, metrics for tracking to tell whether the new approach is preferable to the status quo after a given time period, and how the proposal will be implemented and on what timeline).

The PAs are already planning to attach a “Comparison Document” to their BPs, which will identify the key issues that were raised, the various camps of thought, who supports which idea, and key issues that the Commission will need to consider resolving. SW and 3P Proposals could be incorporated into this document or in some other format preferred by the Commission.

Q2: If you prefer the Commission to give guidance prior to the submission of Business Plans, what level of guidance should be given? Explain in detail.

See Answer to Q1

Q3: How should any Commission requirements for statewide and/or third-party approaches apply to non-utility program administrators (e.g., community choice aggregators (CCAs), CAEATFA, the Regional Energy Networks (RENs), CSE, etc.)?

The answer to this question depends on what it is the Commission is hoping to achieve with the modifications. If, for example, the objective is that certain programs are implemented uniformly, and some of those programs are currently implemented by RENs or MCE, then any modification should apply equally to them as well. Similarly, if the CPUC requires that all implementation of programs should be bid out by PAs, there would need to be a strong rationale for why the Commission would apply a different direction to non-IOU PAs. As NRDC recommends in Q14, the CPUC should phase in any proposed modifications and therefore could consider testing out some of the approaches on larger programs or certain territories to work out the details prior to requiring changes to the entire portfolio for all PAs.

Q4: What type of showing should the Commission require for any Business Plan proposal that addresses statewide and/or third-party approaches?(e.g., rationale, program logic model, relationship to other parts of the portfolio, definition of designer/implementer/evaluator, proportion of the budget, bid solicitation protocols, etc.). Describe in detail.

The answer to this question depends on whether the Commission takes the approach NRDC proposed above where PAs would be required to submit proposals after leveraging the CAEECC process or whether the CPUC provides specific requirements in the forthcoming decision. If the former, see NRDC's answer to Q1. If the latter, the Commission should simply require a rationale as to how the modifications to the BP align with the guidance provided in the forthcoming decision.

Q5: Are there aspects of the current statewide programs approach that are effective and should be continued? Explain.

The original intent of having uniform contracts, measures, and rebates is still appropriate. In addition, assigning one IOU to be in charge of the process is a helpful coordination approach that should be maintained.

Q6: Are there aspects of the current third-party programs approach that are effective and should be continued? Explain.

The general approach to third parties should continue to be supported by the Commission. Specifically, non-PA entities should be able to implement a wide variety of offerings including, but not limited to, general outsourcing of services, implementing an already designed program, filling a specific gap in a sector or technology, as well as having sufficient opportunities to design and implement programs that were not necessarily identified by the PA but where there is evidence their program idea fills an observed gap.

Q7: How should the Senate Bill 350 requirements for market transformation programs and pay-for-performance programs factor in to our policies for statewide and third-party programs?

Pay-for-Performance approaches are already being integrated into the BPs as well as through the Commission's AB 802 process. The Commission should continue to encourage such ideas but not set a particular level or requirement for these types of programs until they see how the initial programs work out.

For the Commission to ensure the Program Administrators, local governments, and third party providers are able to design and implement market transformation programs, a number of policies – beyond modifications to SW and 3P programs - need to be updated, many of which are currently slated for Phase 3 of R.13-11-005. As noted in the market transformation

documents developed for the CPUC in 2014, the current approach to market transformation and various rules need to be modified to enable the desired programs and impacts.¹ In particular, the focus on kWh savings, attribution, inputs for cost-effectiveness, and how such programs are evaluated are examples of barriers to designing and carrying out market transformation programs. This is a much broader issue than SW or 3P programs and should be addressed as soon as practicable in Phase 3 of this proceeding.

Statewide Programs

Q8: Is the general outline of the proposal in this ruling for statewide programs workable? Why or why not? Explain.

NRDC agrees with the Ruling that statewide programs are most applicable to entities (like Home Depot) that have a statewide reach where their operations are sufficiently uniform across the state. (p.3) We therefore support focusing statewide programs on upstream and midstream markets (e.g., big box retailers, manufacturers, etc.) as well as some cross-cutting programs, but do not support increasing downstream statewide programs at this time since such programs often require more nuanced local considerations.

In addition, we understand there has been anecdotal evidence provided by parties that note confusion for contractors/implementers who are experiencing overlap in similar programs. However, it is unclear if these anecdotes are referencing downstream or mid/upstream programs. If the confusion and redundancies are observed in downstream programs, NRDC recommends an assessment be carried out to determine which programs are overlapping and develop a targeted solution to address that issue directly at the source of the problem. This would resolve the concern noted by parties without imparting an automatic uniform approach to downstream programs that may not be appropriate.

In addition, NRDC strongly supports ensuring programs be uniform across publicly owned utility (POU) territories whenever possible (See Q10 for more details on this item). However, NRDC does not agree that it is workable or necessary for all of the listed programs to automatically be bid out for a non-PA implementer (See Q9 for more detail).

¹ Ralph Prahl and Ken Keating. *Building a Policy Framework to Support Energy Efficiency Market Transformation in California and Guidance on Designing and Implementing Energy Efficiency Market Transformation Initiatives*, December 9, 2014.

Q9: Do you agree with the proposed definition of “statewide” given in this ruling? Why or why not?

NRDC agrees with the following portion of the definition: “A program that is designed to be delivered uniformly throughout the four large Investor-Owned Utility service territories.” We also agree with having a lead program administrator managing the statewide program contract, allowing for exceptions for weather-dependent measures (e.g., a Home Depot in Fresno could potentially offer an higher HVAC rebate than in San Francisco), and that these types of programs should predominately be upstream, midstream, as well as some cross-cutting.

However, we do not agree to the following portions of the definition: (a) that a statewide program should automatically require a single program implementer or (b) that customer interface should always be the same. First, it is still unclear what the main problem is that the CPUC is trying to solve. If it is to have uniformity in program design and contracting across territories, a single program implementer is only one option to solve this problem. Another option is to set up a truly single contract (vs. four slightly different contracts) or to ensure one clearly defined program design (as originally intended).

The Commission should test various approaches to determine the most feasible, cost-effective, and sustainable way to address the identified issue. Therefore, until there is proof that the single implementer is a more efficient and effective use of customer funds, NRDC supports testing out various strategies that target only those programs that are having the largest challenges or would be most conducive to a single implementer based on pre-determined criteria (e.g., observed confusion, rising costs, etc.).

Last, while NRDC generally agrees that customer interfaces could start out uniform for statewide programs where appropriate, California is a huge state with extremely different constituents. If a northern California interface works for that territory but does not seem to be resonating in the same manner for southern California customers for whatever reason, there should be the opportunity to modify the approach after providing sufficient rationale to the CPUC (the Commission would need to determine what qualifies as sufficient rationale, but it should not be overly complicated). The CAEECC or appropriate subcommittee could be leveraged to vet any such proposed change based on a predetermined process to ensure transparency for any changes.

We therefore propose the following modification to the definition in the Ruling. Strikethrough connotes items to delete and underlined language should be additions:

A program that is designed to be delivered uniformly throughout the four large Investor-Owned Utility service territories ~~by a single lead program implementer~~ under a uniform contract. Each statewide program should be consistent across territory and overseen by a single lead program administrator. Local or regional variations in incentive levels, ~~or measure eligibility, or program interface~~ are not generally permissible (except possibly for measures that are weather dependent or when the Program Administrator has provided evidence that the default statewide customer interface is not successful in a particular location). ~~and the customer interface/experience should be identical regardless of geographic location~~. Statewide efforts are generally targeted upstream (at the manufacturer level) or midstream (at the distributor or retailer level). ~~though they may include downstream approaches in some markets~~. They are also mainly designed to achieve market transformation and/or aimed at delivering new construction and cross-cutting (cross-sector) programs.

Q10: Are there specific actions that should be taken to collaborate with the California Energy Commission (regarding its Existing Buildings Energy Efficiency Action Plan) and/or with the publicly-owned utilities (POUs) to further advance the idea of truly statewide programs?

NRDC recommends there be regular meetings with the CEC to identify the key items that need to be addressed to comply with AB 758 as well as with the POU associations to find synergies wherever possible. The CEC is a member of the Coordinating Committee and such conversations could leverage the current process whenever feasible.

In addition, to truly have statewide programs with POUs, the energy saving assumptions should also be consistent statewide. This would have the added benefit of allowing for additional collaborations across IOUs and POUs while also providing reliability to the CAISO. Therefore, the CPUC should work with the California Technical Forum on their efforts toward establishing an electronic Technical Reference Manual to establish consistent estimates across the entire state.

Q11: Should the current IOU lead administrators for the statewide program areas remain the same or be changed?

If there are no challenges with the current structure, there is no reason to modify it. However, if there is evidence that the current assignments are not effective the CPUC should make that information public with an opportunity to discuss modifications.

Q12: How should community choice aggregator and regional energy network areas be handled, and what should be the role of those entities with respect to interactions with statewide programs?

See answer to Q3 above.

Q13: Are there programs, subprograms, or other functions that should be added or removed from the list of statewide programs to be assigned for non-utility competitively-bid implementation contracts? Be specific and provide your rationale.

NRDC reiterates our recommendation above (Answer to Q9) that not every statewide program should be automatically bid out to a non-PA entity at this time. The programs to be bid out should be identified through a collaborative approach (e.g., CAEECC could be a forum) and based on identified rationale for why bidding out is a preferred way of addressing the issue the CPUC seeks to address for that particular program (or programs).

With respect to the list, NRDC urges the removal of the Multifamily Energy Efficiency Rebates from the subprogram list being considered for one statewide implementer. There is a much broader need for increased integration and coordination across multifamily programs beyond just those offered by the PAs under CPUC oversight. Furthermore, the utilities have additional multifamily programs also in need of streamlining and coordination, including Home Upgrade-MF and the Energy Savings Assistance Program. Bidding out the MFEER program to another entity at this time will only add an additional layer to an already incredibly complicated landscape.

Furthermore, the multifamily program is primarily a downstream program designed to provide efficiency services to an underserved subsector and therefore do not support such a program to be statewide at this time. While we support ensuring rebates and offerings are consistent for this subsector, it requires a much more nuanced local approach to incentivize multifamily owners and tenants to act and is unlikely conducive to one statewide approach. We therefore urge the Commission to remove MFEER from this subprogram list and instead undertake a broader look at streamlining and coordinating all of the multifamily programs offered by PAs along with the CEC, CSD, POUs, and other entities that also offer programs to best address this sector.

Second, the Deemed and Calculated Incentive programs are not the same type of programs as other potential statewide programs. For example, many programs (e.g., third party,

local government, or other core programs) rely on the deemed incentives as part of the offerings they can provide to entice a downstream customer to take action. Similarly, it may not make sense to have only one outreach strategy or approach to reaching customers as there are multiple ways that downstream customers respond to taking action. However, we agree that the specific incentives and measure offerings should be consistent, barring the need for weather-related modifications, such as for HVAC or similar end uses as noted above. Therefore we propose that the Commission remove the Deemed and Calculated incentives from the list of potential programs to bid out and instead identify whether there is a problem with inconsistency of these offerings. If so, solutions can be proposed to specifically address the observed inconsistencies. Since the approach to get customers to act is a downstream effort (even though the deemed and calculated incentives are classified as a statewide program) NRDC does not support putting these programs in the statewide category to bid out at this time.

Q14: Should the treatment of programs and subprograms as statewide be phased in? Why or why not? If yes, which subprograms should we start with and over what period of time should others be phased in?

NRDC supports experimenting with more effective ways to accomplish the state's climate and energy goals while ensuring prudent use of funding, removing redundancies, and supporting a strong efficiency industry. However, until we are clear that a proposed solution is preferable to the status quo, NRDC recommends the Commission apply any modification to a subsection of the portfolio.

For example, if the hypothesis is that a single statewide implementer would be better suited for statewide programs, the Commission should test this out on one or two statewide programs versus all of the programs at once. Even more helpful would be for the Commission to test their proposed approach on two similar programs to see which approach best results in the desired objectives (e.g., lower administrative costs, reduction in confusion, etc.).

It is also unclear how many non-utility implementers are capable of holding and managing such a statewide contract, let alone implementing the program in four different territories. If it turns out that winners of such bids would still need to subcontract out, it is unclear whether this would be more efficient or simply add another layer of complexity – and potential cost - to the current process. Therefore, phasing and testing this approach – rather than requiring 100% of the programs to be bid out at the start - would be a good strategy to identify whether a single implementer would indeed achieve the objectives of the Commission.

By phasing modifications in, the Commission can test multiple strategies and collect the data it needs to make an informed decision about whether or not to expand such an approach to other areas of the portfolio without unduly disrupting the market during experimentation. Which programs to test should be based on criteria (referenced above) and included as part of the PA proposals in their November BP filings.

Q15: Do you agree with the proposal contained in this ruling with respect to budget sharing for statewide programs? Why or why not?

NRDC defers on this question.

Q16: Should there be any guidelines or limitations on the extent to which non-lead administrators (including other utilities, CCAs, or Regional Energy Networks) could incur expenses to coordinate, monitor, and/or otherwise engage with statewide programs?

NRDC defers on this question.

Q17: Do you agree with the idea of encouraging pay for performance elements in the contracts for selected statewide program implementers? Why or why not?

NRDC generally supports pay for performance elements in contracts when appropriate. If the Commission wishes to expand this approach to contracting, NRDC recommends assessing how such contracts have worked for the PAs over the past ten years prior to providing guidance.

Third-Party Programs

Q18: Do you agree with the definition of “third-party” in this ruling? Why or why not?

NRDC is unclear how the proposed definition would translate into budget allocation, program opportunities, or other functions for third parties (e.g., are only third party programs as defined in the Ruling eligible to bid? Are there no longer opportunities for third parties who want to serve solely as the implementer or delivery channel?). Given that ambiguity, NRDC disagrees with the definition as it appears more restrictive than what currently exists.

There are a host of third parties who provide key services and implementation functions that potentially would no longer “count” as third party programs. Some of these third parties would likely not want to - or may not be capable of - designing, implementing, and delivering a program all in one. In addition, it is not clear why the third party definition would only apply to

utilities. Without knowing what the definition will be used for or why the Commission restricted the definition to utility personnel, NRDC proposes the following definition to ensure a consistent definition across PAs that ensures no third parties are shut out of opportunities.

“the program must be designed, implemented, ~~and~~ or delivered by non-utility PA personnel under contract to a utility program administrator.”

Q19: Is the general outline of the proposal in this ruling for third-party programs workable? Why or why not? Explain.

As noted above in Section II.A, it is unclear what problem(s) the Commission is trying to solve or what hypothesis the Commission wants to test out. In addition, the general outline of the proposal includes options that could potentially be mutually exclusive (e.g., allow the IOUs to figure it out vs. allocate the entire commercial sector only to third party programs). The Ruling also proposes to remove the percentage allocation of 3P programs and infers that such programs would make up the majority of the offerings. However, it does not indicate how that would be. Because of these inconsistencies, NRDC does not find the general outline workable.

The Commission should clarify what it is hoping to achieve with the updated definition and the options presented. For example, the Ruling states objectives of “innovation, effectiveness, cost reduction, and/or better cost-effectiveness.” (p.10) Yet these objectives are relevant to all programs so it is unclear why such objectives would not be applied to the full portfolio or why the Commission thinks bidding out would resolve these challenges. The Ruling also infers other objectives without directly articulating them, such as increasing opportunities for third parties (p.9) and moving the PAs to a mainly administrative role (p.10). As noted in Section II.B, the Commission should provide the specific problems or hypotheses and allow the PAs to work with the CAEECC process to provide proposals as part of the BP filings.

Q20: Which third-party option (Option 1 or Option 2) do you prefer and why? Or would you prefer a different option entirely? If so, describe your preferred approach.

NRDC supports eliminating the 20% allocation in favor of a structure that allows for the most effective implementer to address a particular sector, subsector, or gap. However, it is not automatic that a third party program (as defined in the Ruling or otherwise) would be the best option, nor is it automatic that the default PA is the preferred approach. What is most important is that there is a clear process for identifying market needs, bidding out particular sectors or subsectors, and transparently reviewing those bids. While both options have their merit, it is still

unclear the overarching objectives. While NRDC provides input on the two options below, we continue to recommend that the CAEECC process work out the details of the proposals once the Commission articulates its desired outcomes and therefore does not provide an additional proposal at this time.

Option 1

Ideally, the PA – as the efficiency administrator - would be responsible for identifying the needs in the market in a transparent and fact-based manner. They could leverage the CAEECC to present and discuss gaps as PAs did in Phase 1 of the BP development and/or include an expert consultant to “gut-check” the results as has been recommended by parties. Once identified, solicitations would be launched to address those identified gaps (whether broad sector, customer-specific, or end-use-specific) in addition to the ongoing IDEEA 365 opportunities for third parties to bid in their innovative ideas and/or additional observed gaps not previously identified. There would also need to be a new transparent oversight function (perhaps leveraging CAEECC) to ensure the entire process is running as intended as the Peer Review Groups are not set up to do such a function.

This approach should also allow for anyone to bid if they have the expertise (including local governments even if beyond their existing local government partnerships) and should enable all types of “on ramps” for third parties where appropriate, including - but not limited to - outsourcing services, allowing for implementation of a predetermined program or delivery of an offering, request for a particularly end-use that is not getting sufficient uptake, and an open solicitation to allow third parties with other ideas to have more opportunities (akin to the open solicitations that were available for the 2010-12 cycle). Given there is a spectrum of third parties in the state, the Commission should ensure the most inclusive opportunities as possible and allow for multiple options for third parties to be involved in advancing California’s efficiency vision. The Commission would also need to consider what the alternative approach would be if the bids come back and do not sufficiently meet the predetermined criteria (as was the case at times during the third party solicitations over the past decade). In addition, the policy on administrative costs should be re-evaluated (what they are and how much is allowable) as it is extremely resource intensive to carry out solicitations, especially if the Commission chooses to greatly increase this approach and involve a stakeholder process.

Option 2

It would also be interesting to see if bidding out a particular subsector would indeed yield more effective programs (however that might be defined). We would support bidding out a portion of the commercial sector based on agreed-upon criteria (e.g., low participation rates, high potential for savings but low actual savings, large customer base to test a strategy, etc.) to test out the hypothesis that 3Ps could yield improved programs. NRDC proposes a classic scientific experimentation approach to bidding out the chosen subsector in order to objectively observe which approach is more effective (yet to be defined).

For example, once the subsector is decided (e.g., schools), there should be a bid for a new approach (or two) to address this subsector while continuing current program offerings in a similar population. The test areas should not be too close in proximity as to create confusion or competition and should also be large enough to provide sufficient data to assess which approach is preferred. By carrying out such an experiment, the Commission will have additional information to decide on future direction. It may be that both work equally well, indicating that both approaches should be continued, or perhaps one approach clearly rises to the top based on the pre-determined criteria of success. Either way, such an empirical approach would yield valuable data to inform future Commission direction.

However, until it becomes clear what the problem is (e.g., current PA programs are not performing based on agreed-upon criteria) or what hypothesis the Commission wants to test (e.g., bidding out subsectors or programs will yield more effective programs, as measured by agreed-upon criteria), NRDC cannot fully endorse either option.

Q21: If you prefer Option 1 for third-party approaches, are there criteria that administrators should use for determining eligible program targets, sizes or budgets, or should this be determined in the course of formulating the Sector Business Plans?

If the Commission were to go with Option 1, we agree there would be need for criteria to help guide this process and to ensure all parties and staff are on the same page. However, until we understand what the objective is (e.g., all programs should be bid out, there should be more opportunities for 3Ps, programs should be focusing on innovation, etc.), NRDC is unable to propose specific criteria at this time. As noted above, NRDC suggests that if this is one proposal the Commission would like to see in the November BP filings, the PAs should leverage the CAEECC process to help develop such submittals.

Q22: If you prefer Option 2 for third-party approaches, would you limit the initial focus to the large commercial sector? Why or why not? Or suggest a different focus and rationale for it.

See Q20. NRDC supports testing this idea on a subsector of the commercial sector, but recommends choosing a subsector based on agreed-upon criteria (examples identified above). This would ensure the Commission is not disrupting a highly functioning program with this approach and that the subsector is chosen strategically. NRDC suggests that the PAs leverage the CAEECC process to help develop proposals to be submitted as part of the BP filings.

General Questions

Q23: Is the sector business plan process, with utility, program administrator, and stakeholder collaboration, sufficient to inform the development of program designs and solicitation documents for the proposals herein?

NRDC supports leveraging the CAEECC process for these efforts.

Q24: Are there any other elements or guidance needed from the Commission to ensure that high quality, high-value programs can be effectively implemented across the IOU service areas?

NRDC does not have any comment at this time, but reserves the right to reply.

Q25: Are there other criteria the Commission should use in determining which programs should be required to be competitively bid (e.g., because the IOU cost-effectiveness showings have dropped below a certain threshold, etc.)?

NRDC has provided additional criteria options above (e.g., high efficiency potential but low participation rates, observed confusion, less than expected savings, etc.) and suggests that the PAs leverage the CAEECC process to help develop proposals as part of the BP filings.

Q26: How might the CEC's statewide benchmarking and disclosure regulations and program activities for commercial and multi-family buildings be reflected in the statewide and third-party program approaches?

Regardless of the structure of statewide or third party programs, all PAs will need to ensure their programs and approaches comply with the forthcoming benchmarking and disclosure regulations due out in 2017 from the CEC. However, given that we do not know what those are at this time, this question would best be asked once we see what the requirements are. However, once regulations are finalized, utilities should target their program offerings and audits to buildings that show the greatest need (e.g., have a low benchmarking score). Furthermore, since whole-building data will need to be aggregated by Jan 1, 2017, utilities could potentially

begin targeting the highest energy users as part of 2017 programs before the benchmarking regulations are finalized.

Q27: If you suggest that some or all of the proposals in this ruling be implemented, what is the appropriate timeframe and transition process (if any), and why?

NRDC defers on timing, but notes that developing, vetting, and launching a solicitation can take upwards of 6 months minimum, especially if it includes a stakeholder process.

Q28: If you have alternative proposals for statewide and third-party aspects of the energy efficiency program portfolios, please describe them in detail.

NRDC's proposed modifications to the current proposals are noted above. We do not have any additional proposals at this time. However we do provide a summary many of the various described or inferred challenges we observed along with a short summary of suggested solutions. The following options would require criteria by which to choose the approach or targeted program/sector and would need specific metrics to measure if the proposal does in fact improve the overall process. This list provides examples, but is not necessarily inclusive of all potential issues parties or the Commission are interested in addressing. If the intent is to:

1. Ensure consistency across programs to increase ease of access to programs and reduce confusion: the Commission should test out various options including a statewide implementer for a specific program identified as having challenges, as well as test out improved contracting and program design practices. The tests should be limited to a few programs at first.
2. Test the hypothesis that one program implementer would reduce program costs: the Commission should pick two similar programs and compare costs with a statewide implementer as compared to the PA coordinated effort based on criteria.
3. Test the hypothesis that third parties can deliver better programs (however that is defined): the Commission should pick a particular subsector as noted above (e.g., schools) and divide up the territory to test the two (or three) delivery mechanisms.
4. Provide more opportunities for third parties to design innovative programs: the PAs should increase the IDEEA 365 program budget and adjust the rules of the solicitation to allow for innovation (e.g., ensure a sufficient number of open solicitations, modify the cost-effectiveness restriction, etc.). The Commission should also evaluate current rules that may be inhibiting the ability to offer innovative programs (e.g., energy saving estimates, cost-effectiveness inputs, etc.).
5. Allow third parties to propose additional programs that are not identified by the PA (innovative or tried-and-true): the Commission should set up a process that provides third parties the opportunity to propose their program (e.g., perhaps it is a modified IDEEA 365 that allows for innovative or otherwise not being addressed).

6. Reduce costs and improve TRCs, the Commission should first take a look at the particular challenges with costs and the TRCs. Most likely, third parties (and local governments) are also struggling with maintaining high TRCs. If this is the case after analysis, the Commission should re-evaluate the inputs for programs and/or consider alternative approaches (currently being discussed in the IDER proceeding) as a potential solution to this challenge in addition to trying to optimize program design.

IV. Conclusion

NRDC appreciates the discussion of evolving the current approach to aid in the scaling up of efficiency savings to meet our state's climate and energy goals and looks forward to working with staff and stakeholders to develop solutions to identified issues.

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Respectfully submitted,



Lara Ettenson, Director, CA EE Policy
Natural Resources Defense Council
111 Sutter St., 21st floor
San Francisco, CA 94104
415-875-6100
lettenson@nrdc.org